

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DONALD COLE BURCHETT,)
Petitioner,) CASE NO. C08-1406-RAJ-BAT
v.)
SPOKANE COUNTY SHERIFF,) ORDER DISMISSING § 2254 PET.
Respondent.)

The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge, petitioner's objections thereto, and the balance of the record, does hereby find and

- (1) The Court adopts the Report and Recommendation.
- (2) Petitioner's petition for a writ of habeas corpus and this action are DISMISSED without prejudice. *See* 28 U.S.C. § 2244(b)(3)(A).
- (3) Petitioner's application for leave to proceed *in forma pauperis* is DENIED as moot.
- (4) The Clerk is directed to send a copy of this Order to petitioner and to Judge Tsuchida.

DATED this 21st day of November, 2008.


The Honorable Richard A. Jones
United States District Judge